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10/541,141

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Henrik Pavlovic

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INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

JANCA, ANDREW JOSEPH

ART UNIT

PAPER NUMBER

1797

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,141	Applicant(s) PAVLOVIC ET AL.	
	Examiner Andrew Janca	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 8 recites "a connecting device" and "a detent device". It is unclear whether the "connecting device" and the "detent device" are required elements, or elements intended to be used with the pitcher and pitcher support during intended operations.
- b. Claim 8 recites the limitation "the mounted end position of the connecting device". There is insufficient antecedent basis for this limitation in the claim.
- c. Claim 13 recites the limitation "the screwing-in". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 8-14, 17-22, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,526,949 to Carey et al.

6. With regard to claim 8, Carey et al teach a pitcher arrangement for a blending device, comprising a pitcher 20 and a pitcher support 18 being mountable on the pitcher by way of a connecting device 30-32-34 (2:15-18, figure 2), and when the pitcher is mounted a detent device 30-32-34 (figures 2-5), by which the connecting device can be detented in its mounted position, is provided between the pitcher and the pitcher support, wherein the detent device has at least one pair of complementary detent means, one of 32-30B and 32-30A-30B (figure 2), which can be brought into mutual engagement in the mounted end position of the connecting device in such a manner that further rotation of the pitcher beyond the end position is prevented (2:34-38).

7. With regard to claim 9, Carey et al teach that the connecting device 30-32-34 includes a threaded connection 30A-32-34 (1:16-17, figure 2).

8. With regard to claim 10, Carey et al teach that the detent means includes a projection and a cut-out, one of projection 30B and cut-out 34, the gaps between detents and threads 32 (figure 4), and projection 32 and the cut-out formed by the interior of collar 18 beneath the thread 30A and the detent 30B (figure 2).

9. With regard to claim 11, Carey et al teach that the projection 32 is arranged at the pitcher and the cut-out is arranged at the pitcher support (figure 2).
10. With regard to claim 12, Carey et al teach that the projection 30B is provided at the pitcher support and the cut-out 34 is provided at the pitcher (figure 2).
11. With regard to claim 13, Carey et al teach that the connecting device includes a threaded connection 32-34-30A having an internal thread 32 and an external thread 30A, the projection 30B and the cut-out 34 being respectively arranged at one of upper and lower edges of one of the external thread and the internal thread so that detenting takes place not during the screwing-in, but only directly on reaching the end position (figure 2).
12. With regard to claim 14, Carey et al teach that two pairs of detent means 32-30A and 32-30B are disposed diametrically opposite one another (figures 2 and 6).
13. With regard to claim 17, Carey et al teach a pitcher arrangement for a blending device, comprising a pitcher 20 having an open underside; a pitcher support 18-26 mountable on the pitcher to close the open underside; a connecting means 30-32-34 for connecting the pitcher support to the pitcher in a mounted end position; and at least one pair of complementary detent means, one of 32-30B and 32-30A-30B, on at least one of the pitcher and the pitcher support, the detent means being in mutual engagement with one another in the mounted end position and resisting further rotation of the pitcher with respect to the pitcher support beyond the mounted end position (figures 2-5, 2:34-38).
14. With regard to claim 18, Carey et al teach that the complimentary detent means includes a mating projection 32 and a cut-out, the cut-out formed by the interior of collar

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18 beneath the thread 30A and the detent 30B, with the projection 32 disposed on the pitcher and the cut-out disposed on the pitcher support (figure 2).

15. With regard to claim 19, Carey et al teach that the complimentary detent means includes a mating projection 30B and cut-out 34 with the projection disposed on the pitcher support and the cut-out disposed on the pitcher (figure 2).

16. With regard to claim 20, Carey et al teach that the connection means comprises a threaded connection including an external thread on the pitcher and an internal thread on the pitcher support (1:16-17).

17. With regard to claim 21, Carey et al teach that the complimentary detent means includes a mating projection and cut-out with the projection 30B disposed on the pitcher support and the cut-out 34 disposed on the pitcher and being engagable with one another, the projection and the cut-out being arranged at a corresponding edge including at least one of an upper edge and a lower edge of the external 32 and internal threads 30A, wherein engagement of the projection and cut-out is avoided while the pitcher support is being threaded onto the pitcher and permitted after the pitcher support reaches the mounting end position on the pitcher (figure 2).

18. With regard to claim 22, Carey et al teach two pairs of detent means 32-30A and 32-30B disposed diametrically opposite one another (figures 2 and 6).

19. With regard to claim 24, Carey et al teach a pitcher assembly 10 for a blending device, comprising a pitcher 20 including an annular pitcher foot 34 disposed near a bottom portion of the pitcher and forming an open underside for receiving a rotating tool shaft 26, the pitcher foot having an external thread 32 and forming a recessed cut-out

34 (the gaps between threads 32) near the external thread; and a pitcher support 18-26 removably engaging the pitcher foot and sealing the open underside, the pitcher support having an internal thread 30A threadingly engaging the external thread of the pitcher foot and a projection 30B extending radially inwardly from the pitcher support near the internal thread and engaging the cut-out when the pitcher support is threaded onto the pitcher foot, the projection and the cut-out resisting rotational movement of the pitcher in relation to the pitcher support when the projection and cut-out engage one another (figures 2-5, 2:34-38).

20. With regard to claim 25, Carey et al teach that the pitcher foot includes a plurality of recessed cut-outs 34 and the pitcher support includes a plurality of projections 30B (figure 6) extending radially inwardly, each projection engaging a corresponding cut-out 34 when the pitcher support is threaded onto the pitcher foot to resist rotational movement of the pitcher in relation to the pitcher support (figure 2).

21. Claims 8-11, 13, 14, 17, 18, 20-22, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,694,832 to Kakimoto et al.

22. With regard to claim 8, Kakimoto et al teach a pitcher arrangement for a blending device, comprising a pitcher 110 and a pitcher support 115 being mountable on the pitcher by way of a connecting device 113-114-116-117, and when the pitcher is mounted a detent device 114-116, by which the connecting device can be detented in its mounted position, is provided between the pitcher and the pitcher support, wherein the detent device has at least one pair of complementary detent means 114-116, which can be brought into mutual engagement in the mounted end position of the connecting

device in such a manner that further rotation of the pitcher beyond the end position is prevented (figure 11).

23. With regard to claim 9, Kakimoto et al teach that the connecting device includes a threaded connection, having vertical threads 113 (figure 11).

24. With regard to claim 10, Kakimoto et al teach that the detent means includes a projection 114 and a cut-out 116 (figure 11; parts 59 and 60 in figure 3).

25. With regard to claim 11, Kakimoto et al teach that the projection 114 is arranged at the pitcher and the cut-out 116 is arranged at the pitcher support (figure 11).

26. With regard to claim 13, Kakimoto et al teach that the connecting device includes a threaded connection having an internal thread 117 and an external thread 113, the projection 114 and the cut-out 116 being respectively arranged at one of upper and lower edges of one of the external thread and the internal thread so that detenting takes place not during the screwing-in, but only directly on reaching the end position (figures 11 and 3). It is clear from the enlarged gaps at the top of threads 117 that a certain amount of rotational play is allowed upon insertion, and hence the apparatus may be used in such a way that there is some screwing-in motion at the beginning of the insertion until the pitcher is successfully vertically seated. It has been held that the manner of operating an apparatus does not differentiate an apparatus claim from the prior art, if the prior art apparatus teaches all of the structural limitations of the claim. See *Ex Parte Masham*, 2 USPQ2d 1647 (BPAI 1987).

27. With regard to claim 14, Kakimoto et al teach that two pairs of detent means are disposed diametrically opposite one another (figures 12A-12B).

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28. With regard to claim 17, Kakimoto et al teach a pitcher arrangement for a blending device, comprising a pitcher 110 having an open underside; a pitcher support 115 mountable on the pitcher to close the open underside; a connecting means 113-114-116-117 for connecting the pitcher support to the pitcher in a mounted end position; and at least one pair of complementary detent means 114-116 on at least one of the pitcher and the pitcher support, the detent means being in mutual engagement with one another in the mounted end position and resisting further rotation of the pitcher with respect to the pitcher support beyond the mounted end position (figure 11).

29. With regard to claim 18, Kakimoto et al teach that the complimentary detent means includes a mating projection 114 and cut-out 116 with the projection 114 disposed on the pitcher and the cut-out 116 disposed on the pitcher support (figures 3 and 11).

30. With regard to claim 20, Kakimoto et al teach that the connection means comprises a threaded connection including an external thread 113 on the pitcher and an internal thread 117 on the pitcher support (figure 11).

31. With regard to claim 21, Kakimoto et al teach that the complimentary detent means includes a mating projection and cut-out with the projection 114 disposed on the pitcher support and the cut-out 116 disposed on the pitcher and being engagable with one another, the projection and the cut-out being arranged at a corresponding edge including at least one of an upper edge and a lower edge of the external and internal threads 113-117, wherein engagement of the projection and cut-out is avoided while the

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pitcher support is being threaded onto the pitcher and permitted after the pitcher support reaches the mounting end position on the pitcher (figures 3 and 11).

32. With regard to claim 22, Kakimoto et al teach two pairs of detent means 114-116 disposed diametrically opposite one another (figures 12A-12B).

33. With regard to claim 24, Kakimoto et al teach a pitcher assembly for a blending device, comprising a pitcher 110 including an annular pitcher foot 112 disposed near a bottom portion of the pitcher and forming an open underside for receiving a rotating tool shaft, the pitcher foot having an external thread 113 and forming a recessed cut-out near the external thread, the gap between neighboring threads 113; and a pitcher support 115-25 (the blending means 25 sealing the pitcher's open underside may be seen in figure 16) removably engaging the pitcher foot and sealing the open underside, the pitcher support having an internal thread 117 threadingly engaging the external thread of the pitcher foot and a projection, the projections in between neighboring threads 117, extending radially inwardly from the pitcher support near the internal thread and engaging the cut-out when the pitcher support is threaded onto the pitcher foot, the projection and the cut-out resisting rotational movement of the pitcher in relation to the pitcher support when the projection and cut-out engage one another (figure 11).

34. With regard to claim 25, Kakimoto et al teach that the pitcher foot 112 includes a plurality of recessed cut-outs and the pitcher support 115-25 includes a plurality of projections extending radially inwardly, each projection engaging a corresponding cut-

out when the pitcher support is threaded onto the pitcher foot to resist rotational movement of the pitcher in relation to the pitcher support (figure 11).

Claim Rejections - 35 USC § 103

35. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

36. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

37. Claims 15, 16, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,526,949 to Carey et al in view of US 5,636,923 to Nejat-Bina. Carey et al teach that the pitcher support is slidably mounted on the blending device, and do not teach a bayonet connection between the latter two parts. However, Nejat-Bina teaches a blender with a pitcher 82 connected to a pitcher support 26 by means of a threaded connection (figures 2-3), and further teaches a further connecting device,

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bayonet connection 42-96, for mounting the pitcher support on the blending device.

Further, since removal of the pitcher from the support and the support from the base require human intervention, the limitation that one connection may be more easily undone than another is a statement of intended use. It has been held that a statement of intended use in an apparatus claim fails to distinguish over a prior art apparatus. See *In re Sinex*, 309 F.2d 488, 492, 135 USPQ 302, 305 (CCPA 1962). It is clear that since both the bayonet means of the pitcher support of Nejat-Bina and the threading-detent means of Carey et al secure the three parts against relative rotation in the absence of human intervention, that any one connection may be more easily unconnected by holding the two parts together, while removing them as a unit from the third. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to provide the bayonet means of Nejat-Bina to the pitcher support of Carey et al: the motivation would have been to more firmly secure the pitcher support to the blender base.

Conclusion

38. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Janca whose telephone number is (571) 270-5550. The examiner can normally be reached on M-Th 8-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on (571) 272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AJJ

/DAVID L. SORKIN/
Primary Examiner, Art Unit 1797